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HEALTH LAWS

OF THE

STATE OF IOWA,

COMPILED BY THE

STATE BOARD OF HEALTH.

1886.

June 1, 1886.



STATUTORY REGULATIONS.

STATE BOARD OF HEALTH.

[Chapter 151, Laws of 1880.]

AN ACT to establish a State Board of Health in the State of Iowa, to provide for collecting vital statistics, and to assign certain duties to local boards of health, and to punish neglect of duties.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That the Governor, with the approval of the executive council, shall appoint nine (9) persons, one of whom shall be the Attorney-General of the State (by virtue of his office), one a civil engineer, and seven (7) physicians, who shall constitute a State board of health. The persons so appointed shall hold their offices for seven (7) years; *provided*, that the term of office of the seven physicians first appointed shall be so arranged by lot that the term of one shall expire on the thirty-first (31st) day of January of each year; and that vacancies thus occasioned, as well as all other vacancies otherwise occurring, shall be filled by the Governor, with the approval of the executive council.

SEC. 2. The State board of health shall have the general supervision of the interests of the health and life of the citizens of the State. They shall have charge of all matters pertaining to quarantine; they shall supervise a State registration of marriages, births and deaths, as hereinafter provided; they shall have authority to make such rules and regulations and such sanitary investigations as they may from time to time deem necessary for the preservation or improvement of the public health; and it shall be the duty of all police officers, sheriffs, constables, and all other officers of the State, to enforce such rules and regulations, so far as the efficiency and success of the board may depend upon their official co-operation.

SEC. 3. The clerk of the district and circuit courts of each of the several counties in the State shall be required to keep separate books for the registration of the names and post-office address of physicians and midwives, for births, for marriages, and for deaths, which record shall show the names, date of birth, death or marriage; the names of parents and sex of the child when a birth; and when a death, shall give the age, sex and cause of death, with the date of the record and the name of the person furnishing the information. Said books shall always be open for inspection without fee; and the clerks of said courts shall be required to render a full and complete report of all births, marriages and deaths to the secretary of the board of health annually on the first day of October of each year, and at such other times as the board may direct. [For which service the clerk shall receive, in addition to the compensation already allowed him by law, the sum of ten cents for each birth, marriage or death so recorded by him, and the further sum of ten cents for each one

hundred words of written matter contained in said report, the same to be paid out of the county fund.]—*Chapter 140, Section 1, Laws 1882.*

SEC. 4. It shall be the duty of the board of health to prepare such forms for the record of births, marriages and deaths as they may deem proper; the said forms to be furnished by the secretary of said board to the clerks of the district and circuit courts of the several counties, whose duties it shall be to furnish them to such persons as are herein required to make reports.

SEC. 5. It shall be the duty of all physicians and midwives in this State to register their names and postoffice address with the clerk of the district and circuit courts of the county where they reside; and said physicians and midwives shall be required, under penalty of ten dollars (\$10), to be recovered in any court of competent jurisdiction in the State at suit of the clerk of the court, to report to the clerk of the courts, within thirty (30) days from the date of their occurrence, all births and deaths which may come under their supervision, with a certificate of the cause of death, and such other facts as the board may require, in the blank forms furnished, as hereinafter provided.

SEC. 6. When any birth or death shall take place, no physician or midwife being in attendance, the same shall be reported by the parent to the clerk of the district and circuit courts within thirty days from the date of its occurrence, and if a death, the supposed cause of death, or, if there be no parent, by the nearest of kin not a minor; or, if none, by the resident householder where the birth or death shall have occurred, under penalty provided in the preceding section of this act. Clerks of the district and circuit courts shall annually, on the first day of October of each year, send to the secretary of the state board of health a statement of all births and deaths recorded in their offices for the year preceding said date, under a penalty of twenty-five dollars (\$25) in case of failure.

SEC. 7. The coroners of the several counties shall report to the clerk of the courts all cases of death which may come under their supervision, with the cause or mode of death, etc., as per form furnished, under penalty as provided in section 5 of this act.

SEC. 8. All amounts recovered under the penalties of this act shall be appropriated to a special fund for carrying out the objects of this law.

SEC. 9. The first meeting of the board shall be within twenty days after its appointment, and thereafter in May and November of each year, and at such other times as the board shall deem expedient. The November meeting shall be in the city of Des Moines. A majority of the members of the board shall constitute a quorum. They shall choose one of their number to be President, and shall adopt rules and by-laws for their government, subject to the provisions of this act.

SEC. 10. They shall elect a secretary; who shall perform the duties prescribed by the board and by this act. He shall receive a salary, which shall be fixed by the board, not exceeding \$1,200 per annum. He shall with the other members of the board, receive actual traveling and other necessary expenses incurred in the performance of official duties; but no other member of the board shall receive a salary. The president of the board shall [monthly*] certify the amount due the secretary, and on presentation of said certificate the

*As amended by Chapter 173, Acts of 20th G. A.

Auditor of State shall draw his warrant on the State Treasurer of [for] the amount.

SEC. 11. It shall be the duty of the board of health to make a biennial report, through their secretary or otherwise, in writing, to the Governor of the State, on or before the first (1st) day of December of each year preceding that in which the General Assembly meets; and such report shall include so much of the proceedings of the board, such information concerning vital statistics, such knowledge respecting diseases, and such instruction on the subject of hygiene as may be thought useful by the board, for dissemination among the people, with such suggestions as to the legislative action as they may deem necessary.

SEC. 12. The sum of five thousand dollars (\$5,000) per annum, or so much thereof as may be necessary, is hereby appropriated to pay the salary of the secretary, meet the contingent expenses of the office of secretary and the expenses of the board, and all costs of printing, which together shall not exceed the sum hereby appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary. The Secretary of State shall provide rooms suitable for the meetings of the board and office room for the secretary of the board.

SEC. 13. The mayor and aldermen of each incorporated city, the mayor and council of any incorporated town or village in the State, or the trustees of any township, shall have and exercise all the powers and perform all the duties of a board of health within the limits of the cities, towns and townships of which they are officers.

SEC. 14. Every local board of health shall appoint a competent physician to the board, who shall be the health officer within the jurisdiction and shall hold his office during the pleasure of the board. The clerks of the townships and the clerks and recorders of cities and towns, shall be clerks of the local boards. The local boards shall also regulate all fees and charges of persons employed by them in the execution of the health laws and their own regulations.

SEC. 15. It shall be the duty of the health physician of every incorporated town, and also the clerk of the local board of health in each city or incorporated town or village in the State, at least once a year to report to the State board of health their proceedings and such other facts required on blanks and in accordance with instructions received from said State board. They shall also make special reports whenever required to do so by the State board of health.

SEC. 16. Local boards of health shall make such regulations respecting nuisances, sources of filth and causes of sickness within their jurisdiction and on board any boats in their ports or harbors as they may judge necessary for the public health and safety; and if any person shall violate any such regulations he shall forfeit a sum of not less than twenty-five dollars (\$25) for every day during which he knowingly violates or disregards said rules and regulations, to be recovered before any justice of the peace or other court of competent jurisdiction.

SEC. 17. The board of health of any city or incorporated town or village shall order the owner of any property, place or building (at his own expense) to remove any nuisance, source of filth or cause of sickness found on private

property, within twenty-four (24) hours, or such other time as is deemed reasonable after notice served as hereinafter provided; and if the owner or occupant neglects to do so, he shall forfeit a sum not exceeding twenty dollars (\$20) for every day during which he knowingly and wilfully permits such nuisance or cause of sickness to remain after the time prescribed for the removal thereof.

SEC. 18. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the owner, occupant or other person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof, to be recovered by civil action in the name of the State before any court having jurisdiction.

SEC. 19. The board, when satisfied upon due examination that any cellar, room, tenement, or building in its town, occupied as a dwelling place has become by reason of the number of occupants, or want of cleanliness, or other cause, unfit for such purpose, and a cause of nuisance or sickness to the occupants or the public, may issue a notice in writing to such occupants, or any of them, requiring the premises to be put in a proper condition as to cleanliness, or, if they see fit, requiring the occupants to remove or quit the premises within such time as the board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the board may cause the premises to be properly cleaned at the expense of the owners, or may remove the occupants forcibly, and close up the premises, and the same shall not again be occupied, as a dwelling place, without permission in writing of the board.

SEC. 20. Whenever the board of health shall think it necessary for the preservation of the lives or health of the inhabitants to enter a place, building or vessel in their township, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused such entry, any member of the board may make complaint, under oath, to any justice of the peace of his county, whether such justice be a member of the board or not, stating the facts of the case, so far as he has knowledge thereof. Such justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more members of said board of health, between the hours of sunrise and sunset, repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of such members of the board of health.

SEC. 21. When any person coming from abroad, or residing within any city, town or township within this State, shall be infected, or shall lately have been infected with small-pox, or other sickness dangerous to the public health, the board of health of the city, town or township where said person may be, shall make effectual provision, in the manner in which they shall judge best, for the safety of the inhabitants, by removing such sick or infected person to a separate house, if it can be done without damage to his health, and by providing nurses and other assistance and supplies, which shall be charged to the person himself, his parents or other person who may be liable for his support, if able, otherwise at the expense of the county to which he belongs.

SEC. 22. If any infected person cannot be removed without damage to his health, the board of health shall make provision for him, as directed by the preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures as may be deemed necessary for the safety of the inhabitants.*

SEC. 23. Any justice of the peace, on application, under oath showing cause therefor by a local board, or any member thereof, shall issue his warrant, under his hand, directed to the sheriff or any constable of the county, requiring him, under the direction of the board of health, to remove any person infected with contagious diseases, or to take possession of condemned houses and lodgings, and to provide nurses and attendants, and other necessities for the care, safety and relief of the sick.

SEC. 24. Local boards of health shall meet for the transaction of business on the first Monday of May and the first Monday in November of each year, and at any other time that the necessities of the health of their respective jurisdictions may demand, and the clerk of each board shall transmit his annual report to the secretary of the State board of health within two weeks after the November meeting. Said report shall embrace a history of any epidemic disease which may have prevailed within his district. The failure of the clerk of the board to prepare, or cause to be prepared, and forward such report as above specified, shall be considered a misdemeanor, for which he shall be subject to a fine of not more than twenty-five dollars (\$25.)

SEC. 25. All laws in conflict with this act are hereby repealed.

ADULTERATION OF FOOD, DRINK, AND MEDICINE.

[Chapter 170, Laws Nineteenth General Assembly.]

AN ACT to Prevent and Punish the Adulteration of Articles of Food, Drink, and Medicine, and the sale thereof when adulterated.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That no person shall mix, color, stain, or powder, or order, or permit any other person to mix, color, stain, or powder any article of food with any ingredient or material so as to render the article injurious to health with the intent that the same may be sold, and no person shall sell or offer for sale any such articles so mixed, colored, stained, or powdered.

SEC. 2. No person shall, except for the purpose of compounding, in the necessary preparation of medicine, mix, color, stain, or powder, any drug or medicine with any ingredients or material so as to affect injuriously the quality or potency of such drug or medicine, with the intent to sell the same, or shall

*The statute, however, above cited [Secs. 21 and 22], makes it the imperative duty of the local board of health to provide for such person, regardless of his settlement, and if no county can be charged there is no provision in the statute in question for the payment of their expenses. It appears to us that where there is no settlement the sick or infected person must be deemed to belong to the county where the relief becomes necessary. * * * * * In our opinion, they are to be construed as if the provisions of both sections had been embraced in one section, and the provision as to charging had been placed at the close. If we are correct, then the sick person is properly chargeable with all the expenses which may properly be incurred under either section, including the expenses of removal, if that is adopted, and the expense of isolation, if that is adopted; and we think that the county is ultimately liable for the same, if the sick person, and those liable for his support, are unable to pay.—*Supreme Court, City of Clinton v. County of Clinton, June, 1883.*

offer for sale any such drug or medicine so mixed, colored, stained, or powdered.

SEC. 3. No person shall mix, color, stain, or powder any article of food, drink, or medicine, or article which enters into the composition of food, drink, or medicine, with any other ingredient or material, whether injurious to health or not, for the purpose of gain or profit, or sell or offer for sale, the same, or order or permit any other person to sell or offer for sale any article so mixed, colored, stained, or powdered, unless the same be so manufactured, used or sold, or offered for sale, under its true and appropriate name, and notice that the same is mixed or impure is marked, printed, or stamped upon each package, roll, parcel, or vessel containing the same, so as to be and remain at all times readily visible, or unless the person purchasing the same is fully informed by the seller of the true names of the ingredients (if any than such as are known by the common name thereof) of such articles of food, drink, or medicine, at the time of making the sale thereof, or offering to sell the same. *Provided*, nothing in this section shall prevent the use of harmless coloring material used in coloring butter and cheese.

SEC. 4. No person shall mix any glucose, or grape sugar with syrup or sugar intended for human food; any cheese manufactured from skim milk, or from milk that is partly skimmed, shall be branded as skimmed milk cheese, when the same is offered for sale; or any oleomargarine, suine, beef fat, lard, or any other foreign substance, with any butter or cheese intended for human food; or shall mix or mingle any glucose, grape sugar, or oleomargarine with any article without distinctly marking, stamping, or labeling the article or the package containing the same, with the true and appropriate name of such article, and the percentage in which glucose or grape sugar, oleomargarine, or suine, enters into its composition. Nor shall any person sell, or offer for sale, or permit to be sold or offered for sale, any such food, into the composition of which glucose or grape sugar, oleomargarine, or suine has entered, without at the same time informing the buyer of the fact, and the proportions in which glucose or grape sugar, oleomargarine, or suine, has entered into the composition.

SEC. 5. Any person or persons convicted of violating any of the provisions of any of the foregoing sections of this act, shall for the first offense be fined not less than ten dollars (\$10), nor more than fifty dollars (\$50). For the second offense they shall be fined not less twenty-five [dollars] (\$25) nor more than one hundred dollars (\$100), or confined in the county jail not more than thirty days. And for the third, and all subsequent offenses, they shall be fined not to exceed five hundred (500) *nor more than one thousand* dollars (\$1,000), and imprisonment [ed] in the State prison not less than one year nor more than five years.

SEC. 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 25, 1882.

SEC. 4036. If any person fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to lessen the efficacy, or change the operation of such drugs or medicine, or to make them injurious to health; or sell them knowing that they are thus adulterated, he shall be punished by im-

prisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed.—*Code of 1873.*

SEC. 4037. If any person fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spiritous or malt liquor, or other liquor intended for drinking, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding three hundred dollars, and the article so adulterated shall be forfeited and destroyed.—*Code of 1873.*

SEC. 4038. If any apothecary, druggist or other person, sell and deliver any arsenic, corrosive sublimate, prussic acid, or any poisonous liquid or substance, without having the word "poison" and the true name thereof written or printed upon the label attached to the vial, box or parcel containing the same, he shall be punished by imprisonment in the county jail not more than thirty, or by fine not exceeding one hundred dollars. Any person who may dispose of at retail, any poisonous substance or liquid to any one, for any purpose, is hereby required to enter in a book, to be kept by such apothecary, druggist or other person so disposing, the name of the poison, when bought, by whom, and for what purpose; and if the person who calls for such poison is not personally known to the vendor, then such person shall be identified by some one known to the vendor, whose name shall also be entered in such book. Any failure to comply with the requirements of this provision shall subject the party so failing to imprisonment in the county jail not more than thirty days, or a fine not exceeding one hundred dollars.—*Code of 1873.*

SEC. 4040. If any person wilfully sell, or keep for sale intoxicating, malt or vinous liquors, which have been adulterated or drugged by admixture with any deleterious or poisonous substance, he shall be deemed guilty of a felony, and upon conviction thereof, he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding two years.—*Code of 1873.*

FRAUDULENT BUTTER AND CHEESE.

[Chapter 52, Laws of 1886.]

AN ACT to prevent deception in the manufacture and sale of imitations of Butter and Cheese.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That for the purposes of this act every article, substance or compound other than that produced from pure milk or cream from the same made in the semblance of butter and designed to be used as a substitute for butter made from pure milk or cream from the same is hereby declared to be imitation butter; and that for the purposes of this act every article, substance or compound other than that produced from pure milk or cream from the same made in the semblance of cheese and designed to be used as a substitute for cheese made from pure milk or cream from the same is hereby declared to be imitation cheese; *provided* that the use of salt, rennet, and harmless matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation.

SEC. 2. Each person who manufactures imitation butter or imitation cheese shall mark by branding, stamping or stenciling upon the top and sides of each tub, firkin, box or other package in which such article shall be kept and in which it shall be removed from the place where it is produced, in a clear and durable manner, in the English language, the name of the contents thereof as herein designated, in printed letters of plain Roman type each of which shall be not less than one inch in length by one-half of one inch in width. Every person who by himself or another violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed two hundred and fifty dollars or by imprisonment in the county jail not to exceed sixty days.

SEC. 3. No person by himself or another shall knowingly ship, consign or forward by any carrier whether public or private any imitation butter or imitation cheese, unless the same be marked as provided by section two of this act; and no carrier shall knowingly receive for the purpose of forwarding or transporting any imitation butter or imitation cheese, unless it shall be marked as hereinbefore provided, consigned, and by the carrier receipted for by its name as designated by this act; provided that this act shall not apply to any goods in transit between foreign States and across the State of Iowa.

SEC. 4. No person shall knowingly have in his possession or under his control any imitation butter or imitation cheese unless the tub, firkin, box or other package containing the same be clearly and durably marked as provided by section two of this act; *provided*, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves or family.

SEC. 5. No person by himself or another shall knowingly sell or offer for sale imitation butter or imitation cheese under the name of, or under the pretense that the same is pure butter or pure cheese; and no person by himself or another shall knowingly sell any imitation butter or imitation cheese unless he shall have informed the purchaser distinctly at the time of the sale, that the same is imitation butter or imitation cheese as the case may be and shall have delivered to the purchaser at the time of the sale a statement clearly printed in the English language which shall refer to the article sold and which shall contain in prominent and plain Roman type the name of the article sold as fixed by this act and shall give the name and place of business of the maker.

SEC. 6. No keeper of a hotel, boarding house, restaurant or other public place of entertainment shall knowingly place before any patron for use as food any imitation butter or imitation cheese unless the same be accompanied by a placard containing the name in English of such article as fixed by this act, printed in plain Roman type. Each violation of this section shall be deemed a misdemeanor.

SEC. 7. No action can be maintained on account of any sale or other contract made in violation of or with intent to violate this act by or through any person who was knowingly a party to such wrongful sale or other contract.

SEC. 8. Every person having possession or control of any imitation butter or imitation cheese which is not marked as required by the provisions of this act shall be presumed to have known during the time of such possession or control the true character and name as fixed by this act of such imitation product.

SEC. 9. Whoever shall deface, erase, cancel or remove any mark provided for by this act with intent to mislead, deceive or to violate any of the provisions of this act, shall be deemed guilty of a misdemeanor.

SEC. 10. Whoever shall violate any of the provisions of the third, fourth and fifth sections of this act shall, for the first offense, be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment not exceeding thirty days, and for each subsequent offense shall be punished by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment in the discretion of the court.

SEC. 11. The governor shall within thirty days from the taking effect of this act by and with the *advise* [advice] and consent of the executive council appoint an officer who shall be known as the State Dairy Commissioner, who shall have practical experience in the manufacture of dairy products, the term of office of such commissioner shall commence on the first day of May, A. D. 1886, and shall continue two years. Said commissioner shall give an official bond conditioned for the faithful performance of the duties of his office in the sum of ten thousand dollars with sureties to be approved by the governor. He may be removed from office by the governor with the approval of the executive council for neglect or violation of duty. Any vacancy shall be filled by the appointment of the governor by and with the advice and consent of the executive council.

SEC. 12. The State dairy commissioner shall receive a salary of fifteen hundred dollars per annum, payable monthly, and the expenses necessarily incurred in the proper discharge of the duties of his office, *provided* that a complete itemized statement of all expenses shall be kept by the commissioner and by him filed with the auditor of state after having been duly verified by (him) before receiving the same. He shall be furnished a room in the agricultural department of the capitol at Des Moines, in which he shall keep his office and all correspondence, documents, records and property of the State pertaining thereto all of which shall be turned over to his successor in office. He may, if it is found to be necessary, employ a clerk whose salary shall not exceed the sum of fifty dollars per month. Said salaries and expenses to be paid from the appropriation provided for in section seventeen of this act. The commissioner provided for by this act shall hold no other official position under the laws of Iowa or a professorship in any of the State institutions.

SEC. 13. It shall be the duty of the State dairy commissioner to secure, so far as possible, the enforcement of this act. He shall collect, arrange and present in annual reports to the governor on or before the first day of November of each year, a detailed statement of all matters relating to the purposes of this act, which he shall deem of public importance, including the receipts and disbursements of his office, such reports shall be published with the reports of the State agricultural society.

SEC. 14. The State dairy commissioner shall have power in all cases where he shall deem it important for the discharge of the duties of his office, to administer oaths, to issue subpoenas for witnesses and to examine them under oath, and to enforce their attendance to the same extent and in the same man-

ner as a justice of the peace may now do, and such witnesses shall be paid by the commissioner the same fees now allowed witnesses in justices' courts.

SEC. 15. Whoever shall have possession or control of any imitation butter or imitation cheese contrary to the provisions of this act shall be construed to have possession of property with intent to use it as a means of committing a public offense within the meaning of chapter 50 of title XXV, of the code; *provided*, that it shall be the duty of the officer who serves a search warrant issued for imitation butter or imitation cheese, to deliver to the State dairy commissioner or to any person by such commissioner authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed and forthwith to return to the person from whom it was taken, the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese it shall be returned to and retained by the magistrate as, and for, the purpose contemplated by section 4648 of the code, but if any sample be found not to be imitation butter or imitation cheese, it shall be returned forthwith to the person from whom it was taken.

SEC. 16. It shall be the duty of the court in each action for the violation of this act to tax as costs in the cause, the actual and necessary expense of analyzing the alleged imitation butter or imitation cheese which shall be in controversy in such proceeding provided that the amounts so taxed shall not exceed the sum of twenty-five dollars. It shall be the duty of the district or county attorney upon the application of the dairy commissioner, to attend to the prosecution in the name of the State of any suit brought for violation of any of the provisions of this act within his district, and in case of conviction he shall receive twenty-five per cent of the fines collected, which shall be in addition to any salary he may receive to be taxed as costs in the case.

SEC. 17. There is hereby appropriated for the purposes of this act the sum of twenty thousand dollars or so much thereof as shall be necessary, not more than one-half of which shall be drawn from the State treasury prior to the first day of July, A. D. 1887. The amount hereby appropriated shall be expended only under the direction and with the approval of the executive council. And all salaries, fees, costs and expenses of every kind incurred in the carrying out of this law shall be drawn from the sum so appropriated.

SEC. 18. Chapter 39 of the acts of the Eighteenth General Assembly of Iowa, and all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 19. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Iowa Homestead, newspapers published at Des Moines, Iowa.

Approved March 27, 1886.

SEC. 4036. If any person knowingly sell to another, or knowingly deliver or bring to be manufactured, to any cheese or butter manufactory in this State any milk diluted with water; or in any way adulterated; or milk from which any cream has been taken, or milk commonly known as "strippings" with intent to defraud, or shall knowingly sell the milk, the product of a diseased animal or animals, or shall knowingly use any poisonous or deleterious material in the manufacture of cheese or butter, he shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, and be liable in double the amount of damages to the person or per-

sons, firm, association, or corporation, upon whom such fraud shall be committed.—*Code of 1873.*

FRAUDULENT CANNED GOODS.

[Chapter 174, Laws of Twenty-First General Assembly]

AN ACT in Relation to Canned or Preserved Food.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. It shall hereafter be unlawful in this State for any packer of or dealer in hermetically sealed, canned or preserved fruits, vegetables, or other articles of food to knowingly offer such canned or preserved articles for sale for consumption in this State after October 1st, 1886, unless the cans or jars which contain the same shall bear the name, address and place of business of the person, firm or corporation that canned or packed the articles so offered, or the name of the wholesale dealer in the State who sells or offers the same for sale; together in all cases with the name of the State, city, town or village, where the same were packed, plainly printed thereon, preceded by the words "Packed at," such name, address and place of business shall be plainly printed on the label, together with a mark or term indicating clearly the grade or quality of the articles contained therein.

SEC. 2. All packers of and dealers in soaked goods or goods put up from products dried or cured before canning shall, in addition to complying with provisions of section one of this act, causes to be plainly branded on the face of the label in good legible type, one half of an inch in height and three-eighths of an inch in width the word "soaked."

SEC. 3. All goods packed prior to the passage of this act are exempted from the provisions of this act.

SEC. 4. Any packer or dealer who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and punished by a fine of not more than fifty dollars for each offense in the case of retail dealers, and in case of wholesale dealers and packers by a fine of not less than five hundred dollars nor more than one thousand dollars for each offense. The term "Packer" and "Dealer," as used in this act, shall be deemed to include any firm or corporation doing business as a dealer in or packer of the articles mentioned in this act. It shall be the duty of any board of health in this State, cognizant of any violation of this act, to inform the district attorney whose duty it shall be to institute proceedings against any person who is charged with a violation of the provisions of this act, and in case of conviction shall receive twenty-five per cent. of the fines actually collected which shall be in addition to any salary he may now receive under the law.

SEC. 5. The provisions of this act shall not apply to canned or condensed milk or cream.

SEC. 6. This act shall take effect October first, eighteen hundred and eighty-six.

Approved April 13, 1886.

FRAUDULENT LARD.

[Chapter 137, Laws of 1880.]

AN ACT to Prevent Fraud in the Sale of Lard in Certain Cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That all persons or associations who shall engage in the business of selling lard rendered from swine that have died of hog-cholera, or other diseases, shall, before selling, or offering to sell any such lard, plainly stamp, print, or write upon the cask, barrel, or other vessel containing such lard, the words "lard from hogs which have died from disease"; or, if sold without such cask, barrel, or other receptacles, the purchaser shall be informed that the lard is from hogs which have died of disease.

SEC. 2. For a violation of the provisions of the foregoing section, the offender shall, on conviction thereof, be punished by a fine of not less than five dollars, nor exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

PROTECTION OF PUBLIC HEALTH.

[Chapter 10, Title 24, Code of 1873.]

SECTION 4035. If any person knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be imprisoned in the county jail not more than thirty days, or by fine not exceeding one hundred dollars.

SEC. 4039. If any person inoculate himself or any other person, or suffer himself to be inoculated with small-pox within this State, or come within the State with the intent to cause the prevalence, or spread of this infectious disease, he shall be punished by imprisonment in the penitentiary not more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not exceeding one year. [Or if any person shall place, or, put or aid or abet, in placing or putting any person upon any railroad car, steamboat, or other public conveyance, knowing such person to be infected with diphtheria, small-pox, or scarlet fever, he shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail not more than thirty days.] *Code of 1873 as amended by Chap. 102, Laws of 1884.*

SEC. 4041. If any person throw, or cause to be thrown, any dead animal into any river, well, spring, cistern, reservoir, stream or pond, he shall be punished by imprisonment in the county jail not less than ten nor more than thirty days, or by fine not less than five nor more than one hundred dollars.—*Code of 1873.*

SEC. 1539. It shall be unlawful for any person to sell, give away, by agent or otherwise, any spiritous or other intoxicating liquors, including wine or beer to any minor for any purpose whatever, unless upon the written order of his parent, guardian or family physician, or to sell the same to any intoxicated person, or to any person who is in the habit of becoming intoxicated.—*Code of 1873.*

SEC. 4064. If any person run any threshing machine in this State without having two lengths of tumbling-rods next the machine, together with the knuckles, or joints and jacks of the tumbling-rods safely boxed and secured while the machine is running, he shall be deemed guilty of a misdemeanor, and be punished by fine of not less than ten nor more than fifty dollars, for every day or part of a day he shall violate this section; and any person who shall knowingly, permit either his own grain, or any that may be in his possession, or under his control, to be threshed by a machine the rods, knuckles, or joints of which are not boxed in accordance with the requirements of this section, shall be liable to a like fine, as that prescribed for the person running such machine, both of which fines may be recovered in an action brought before a court of competent jurisdiction.—*Code of 1873.*—(1)

No person shall place in any of the waters of this State any lime, ashes, drug, or medicated bait, with intent thereby to injure, poison, or catch fish. Any person violating the provisions of this section shall be fined not less than five or more than fifty dollars for the first offense, and for the second, or any subsequent offense, not less than twenty dollars, and shall stand committed until such fine be paid.—*Sec. 8, Chap. 50, Laws 1874.*

SEC. 1. It shall be the duty of any person owning or operating steam boilers in this State, to provide such boilers with steam guage, safety-valve, and water-guage, and keep the same in good order.

SEC. 2. Any person neglecting to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than fifty nor more than five hundred dollars.—*Chapter 14, Laws of 1874.*

SEC. 3869. If any person, with intent to produce the miscarriage of any pregnant woman, willfully administer to her any drug, or substance whatever, or with such intent use any instrument, or other means whatever, unless such miscarriage shall be necessary to save her life, he shall be imprisoned in the State prison for a term not exceeding five years, and be fined in a sum not exceeding one thousand dollars. (2).—*Code of 1873, as amended by Chap. 19, Laws of 19th General Assembly.*

SEC. 3877. If any person mingle any poison with any food, drink, or medicine, with intent to kill or injure any human being, or willfully poison any spring, well, cistern, or reservoir of water, he shall be punished by imprisonment in the penitentiary not exceeding ten years, and by fine not exceeding ten thousand dollars.—*Code of 1873.*

(1) This statute does not change the rule that a plaintiff cannot recover for injuries resulting from the negligence of another person, if his own negligence in any degree contributed directly to the injury. *32 Iowa 140.*

(2) To cause death by abortion is in this State murder, independent of as well as under the statute, though there was no intent to cause the death of the woman.

The crime of attempting to produce miscarriage of a pregnant woman, is complete if the attempt is made at any time during pregnancy.

The jurisdiction is with the county in which the medicine intended to produce the miscarriage was administered, and not in that where the miscarriage took place.—*25 Iowa, 128; 36 Iowa, 112; 46 Iowa, 260.*

TOY PISTOLS.

[Chapter 78, Laws of Twentieth General Assembly.]

AN ACT to Prohibit the Selling or Giving Fire Arms to Minors.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That it shall be unlawful for any person to knowingly sell, present or give any pistol, revolver or toy pistol to any minor.

SEC. 2. Any violation of this act shall be punishable by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment in the county jail of not less than ten nor more than thirty days.

Approved March 29, 1884.

EFFECT OF ALCOHOL AND STIMULANTS UPON THE HUMAN SYSTEM.

[Chapter 1, Laws of 1886.]

AN ACT to Provide for the Teaching and Study of Physiology and Hygiene with special reference to the Effects of Alcoholic Drinks, Stimulants and Narcotics upon the Human System, in the Public Schools and Educational Institutions of the State.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That physiology and hygiene, which must in each division of the subject thereof include special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, shall be included in the branches of study now and hereafter required to be regularly taught to and studied by all pupils in common schools and in all normal institutes, and normal and industrial schools and the schools at the Soldiers' Orphans' Home, and Home for Indigent Children.

SEC. 2. It shall be the duty of all boards of directors of schools and of boards of trustees, and of county superintendents in the case of normal institutes, to see to the observance of this statute and make provision therefor and it is especially enjoined on the county superintendent of each county that he include in his report to the superintendent of public instruction the manner and extent to which the requirements of section one of this act are complied with in the schools and institutes under his charge, and the secretary of school boards in cities and towns is especially charged with the duty of reporting to the superintendent of public instruction as to the observance of said section one hereof, in their respective town and city schools, and only such schools and educational institutions reporting compliance, as above required, shall receive the proportion of school funds or allowance of public money to which they would be otherwise entitled.

SEC. 3. The county superintendent shall not after the 1st day of July, 1887, issue a certificate to any person who has not passed a satisfactory examination in physiology and hygiene with especial reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system, and it shall be the duty of the county superintendent as provided by section 1771 to revoke the certificate of any teacher required by law to have a certificate of qualification from the county superintendent if the said teacher shall fail or neglect to comply with section one of this act, and said teacher shall be disqualified for teaching in any public school for one year after such revocation, and shall not be permitted to teach without compliance.

Approved February 17, 1886.

BARBED WIRE AROUND SCHOOL HOUSES.

[Chap. 103, Laws of 1884.]

AN ACT to Prohibit the Use of Barb Wire in Enclosing Public School Grounds.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. It is hereby made the duty of the board of directors of every independent district, and of every district township, to remove before the first day of September, 1884, any barb wire fence enclosing in whole or in part any public school grounds in such district, and it is also made the duty of any person owning or controlling any barbed wire fence within ten feet of any public school grounds to remove the same within the time herein named.

SEC. 2. Hereafter barb wire shall not be used in enclosing in whole or in part any public school building or the grounds upon which the same may stand; and no barbed wire shall be used for a fence or other purpose within ten feet of any public school grounds.

SEC. 3. For failure or neglect on the part of any board of directors of any independent district or of any district townships to carry out the provisions of this act any member of such board shall be fined on conviction not exceeding twenty-five dollars, any person violating the provisions of this act shall on conviction thereof, be fined not exceeding twenty-five dollars.

Approved March 29, 1884.

TO PREVENT RAILROAD ACCIDENTS.

[Chapter 148, Laws of 1876.]

AN ACT to Diminish Liability to Railroad Accidents, and to Punish Interference with, and Injury to, the Property of Railroad Companies:

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa:* If any person shall throw any stone, or any other substance of any nature whatever, or shall present or discharge any gun, pistol, or other fire-arm at any railroad train, cars or locomotive engine, he shall be deemed guilty of a misdemeanor, and be punished accordingly.

SEC. 2. If any person not employed thereon, or not an officer of the law in the discharge of his duty, without the consent of the person having the same in charge, shall get upon, or off, any locomotive engine or car of any railroad company, while said engine or car is in motion; or elsewhere than at the established depots of such company, or who shall get upon, cling to, or otherwise attach himself to any such engine or car, for the purpose of riding upon the same, intending to jump therefrom when such engine or car is in motion, he shall be guilty of a misdemeanor, and be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days.

[Chapter 112, Laws of 1882.]

AN ACT to Further Diminish Liability to Railroad Accidents, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa:* If any person shall wilfully and maliciously uncouple or detach the locomotive or tender, or any of the cars of any railroad train, or shall in any manner aid, abet or procure the doing of the same, such person shall be punished by imprisonment in the State penitentiary not exceeding five years, or by fine not exceeding one thousand dollars, or both, at the discretion of the court.

SEC. 2. If any person shall unlawfully seize upon any locomotive, with, or without any express, mail, baggage, or other car attached thereto, and run the same upon any railroad, or shall aid, abet or procure the doing of the same, such person shall be punished by imprisonment in the State penitentiary not exceeding ten years, or by fine not exceeding two thousand dollars, or both, at the discretion of the court.

SEC. 3. If any person shall, without permission from the proper authority, wrongfully take, or run any hand-car upon any railroad in this State, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than one hundred dollars, or imprisoned not more than thirty days at the discretion of the court; *provided*, that if by such unlawful use of any hand-car, any locomotive or car is thrown from the track, or a collision be produced, or any person injured thereby, he shall on conviction, be imprisoned in the penitentiary for a term of not more than five years; *and provided further*, that if by reason of such unlawful use of any hand-car, any person is killed, such person, so offending shall be deemed guilty of manslaughter.

SEC. 4. If any person, not an employe upon the railroad shall wrongfully interfere with any automatic brake or bell rope upon any railroad car, or use the same for the purpose of stopping or in any way controlling the movement of the train [he] shall be subject to the penalty provided in section three of this act for the unlawful running of a hand-car on any railroad; and any railroad conductor or brakeman on a railroad train shall have power to arrest such person so offending, and deliver him to some peace officer on the line of the railroad.

[Chapter 104, Laws of 1884.]

AN ACT Concerning Bells and Steam Whistles on Locomotives.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That a bell and a steam whistle shall be placed on each locomotive engine operated on any railway in this State, and said whistle shall be twice sharply sounded at least sixty rods before a highway crossing is reached, and after the sounding of the whistle the bell shall be rung continuously until the crossing is passed; *provided*, that at street crossings within the limits of incorporated cities or towns, the sounding of the whistle may be omitted unless required by the council of the city or town, and the company shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

SEC. 2. Every officer or employe of any railroad company who shall violate any of the provisions of this act, shall be punished by fine not exceeding one hundred dollars for each offense.

Approved March 29, 1884.

[Chapter 163, Laws of 1884.]

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. All trains run upon any railroad in this state, which intersects or crosses, or is intersected or crossed, by any other railroad upon the same level, shall be brought to a full stop at a distance not less than two hundred feet, nor more than eight hundred feet from the point of intersection or crossing of such road, before such intersection or crossing is passed by any such train.

SEC. 2. Every engineer violating the provisions of the preceding section shall for each offense forfeit one hundred dollars to be recovered in an action in the name of the State of Iowa, for the benefit of the school fund, and the corporation on whose road such offense is committed, shall forfeit for each offense so committed, the sum of two hundred dollars to be recovered in a like manner.

Approved April 5, 1884.

REGULATING THE PRACTICE OF MEDICINE.

[Chapter 104, Laws of 1886.]

AN ACT to Regulate the Practice of Medicine and Surgery in the State of Iowa.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That every person practicing medicine, surgery or obstetrics, in any of their departments, within this state, shall possess the qualifications required by this act. If a graduate in medicine such person shall present his or her diploma to the state board of examiners, for verification as to its genuineness. If the diploma is found genuine, and is issued by a medical school legally organized and of good standing, of which the State board of examiners shall determine, and if the person presenting and claiming such diploma be the person to whom the same was originally granted, then the State board of examiners shall issue its certificates to that effect signed by not less than five physicians thereof, representing one or more physicians of the schools on the board, and such certificate shall be conclusive as to right of the lawful holder to practice medicine, surgery and obstetrics within this State. If not a graduate the person practicing medicine or surgery within this State, unless he or she shall have been in continuous practice in this State for a period of not less than five years, of which he or she shall present to the State board of examiners satisfactory evidence in the form of affidavits, shall appear before said State board of examiners, and submit to such examination as said board may require. All examinations shall be conducted in writing, and all examination papers, together with the reports, and action of the examiners thereon, shall be preserved as the records of said board for a period of five years, during which time they shall remain open for inspection at the office of the said State board of examiners. Such examinations shall be in anatomy, physiology, general chemistry, pathology, therapeutics and the principles and practice of medicine, surgery and obstetrics. *Provided*, that each applicant upon receiving from the secretary of the board an order for an examination shall receive also a confidential number, which he or she shall place upon his or her examination papers so that when said papers are passed upon by the examiners, the latter shall not know by what applicant said papers have been prepared. That upon each day of examination all candidates be given the same set or sets of questions. It is further provided that the examination papers shall be marked upon the scale of one hundred (100), and that in order to secure a license it shall be necessary for the applicant to attain such average as shall hereafter be determined by the State board of examiners, and if such examination be satisfactory to at least five physicians of said board, representing the different schools of medicine on the board, the board shall issue a certificate which shall entitle the lawful holder thereof to all the rights and privileges herein provided, and the physicians and

the secretary of the State board of health shall constitute and be deemed a board of examiners for the purpose of this act.

SEC. 2. The State board of examiners shall procure a seal within sixty days after the passage of this act, and through the secretary of said board shall receive applications for certificates and examinations. The president, or any member of the board, shall have the authority to administer oaths and take testimony in all matters relating to their duties as examiners aforesaid. The board shall provide three forms of certificates; one for persons in possession of genuine diplomas, one for candidates examined by the board, and one for persons who have practiced medicine or surgery in any of its departments for five years as provided in this act. Said certificates shall be signed by not less than five physicians of the board, and this number may act as an examining board in the absence of the full board: Provided that one or more members of the different schools of medicine represented in the State board of health shall also be represented in the board of examiners. The board of examiners shall hold meetings at such places as will best accommodate applicants residing in different portions of the State, and at any such time as they shall deem best, and due notice of the time and place of such meetings shall be published.

SEC. 3. The board shall examine all diplomas submitted to them for such purpose to determine their genuineness and the rightful ownership of the person presenting the same. The affidavit of the applicant and holder of any diploma that he or she is the person therein named, and is the lawful possessor thereof, shall be necessary to verify the same, with such other testimony of [as] the board may require. Diplomas and accompanying affidavits may be presented in person or by proxy. If the diploma shall be found genuine, and in possession of the person to whom it was issued, the State board of examiners shall, upon the payment of a fee of two dollars, to the secretary of the board, issue a certificate to the holder of such diploma, and no further fee or sum shall be demanded or collected from said applicant by said board for such certificate. If the diploma shall be found to be fraudulent, or not lawfully in possession of the holder or owner thereof the person presenting such diploma or holding or claiming possession thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, be fined not less than twenty dollars nor more than one hundred dollars.

SEC. 4. Every person holding a certificate issued by the State board of examiners, shall, within sixty days after the date of such certificate, have the same recorded in the office of the county recorder in the county wherein he resides, and should he remove from one county to another to practice medicine, surgery or obstetrics, his certificate must be recorded in the county to which he removes. The county recorder shall endorse upon the certificate the date of record, and he shall be entitled to charge and receive a fee of fifty cents for his services, the fee to be paid by the applicant.

SEC. 5. The county recorder shall record in a book provided for that purpose, a complete list of the certificates presented for record, and the date of their issue by the State board of examiners. If the certificate is issued by reason of a diploma, the name of the medical college conferring the same, and the date when conferred shall be recorded; and when such certificate shall have been granted upon the examination of the board, or because of five years'

practice in the State, such fact shall be recorded. Said records shall be open for inspection during business hours.

SEC. 6. Candidates for examination shall pay in advance to the secretary of the State board of examiners, a fee of ten dollars, which fee, together with the fees received for certificates, shall defray the entire expense of the aforesaid board of examiners, and the balance shall be turned over to the State treasurer for the benefit of the school fund, except such an amount as will pay each member of the board ten dollars (\$10) per day during the time he is in actual attendance upon the session of the said board for the purpose of performing the duties required of him under this act, and, as will pay the secretary of the board such a salary as they may allow, not to exceed five dollars per day during the time he is actually engaged in performing the work of the board under this act, and each member of the board of examiners shall also receive a sufficient amount to defray his actual and necessary expenses while in the discharge of the duties herein provided. Any one failing to pass the required examination shall be entitled to a second examination within twelve months without fee, *provided* that any applicant for examination by notice in writing to the secretary shall be entitled to an examination within three months from the time of said notice and a failure to give such opportunity, shall entitle such applicant to practice without the certificate required by this act until the next regular meeting of said board.

SEC. 7. The State board of examiners may refuse to grant a certificate to any person who has been convicted of a felony committed in the practice of his profession or in connection therewith or may revoke certificates for like cause, or for palpable evidence of incompetency, and such refusal or revocation shall prohibit such person from practicing medicine, surgery or obstetrics, provided, such refusal or revocation of a certificate can only be made with the affirmative vote of at least five physicians of the state board of examiners, in which number shall be included one or more members of the different schools of medicine represented in said board; and provided further, that the standing of a legally chartered medical college, from which a diploma may be presented, shall not be questioned except by a like vote.

SEC. 8. Any person shall be deemed as practicing medicine, surgery or obstetrics or to be a physician within the meaning of this act, who shall publicly profess to be a physician, surgeon or obstetrician, and assume the duties, who shall make a practice of prescribing or of prescribing and furnishing medicines for the sick, or who shall publicly profess to cure or heal, by any means whatsoever, but nothing in this act shall be construed to prohibit students of medicine, surgery or obstetrics from prescribing under the supervision of preceptors, or gratuitous service in case of emergency, nor shall this act extend to prohibit women who are at this time engaged in the practice of midwifery nor to prevent the advertising, selling or prescribing natural mineral waters flowing from wells or springs nor shall this act apply to surgeons of the United States army or navy, marine hospital service, nor to physicians as defined herein who have been in practice in this State for five consecutive years, three years of which time shall have been in one locality; provided, such physician shall furnish the State board of examiners satisfactory evidence of such practice, and shall procure the proper certificate, as provided in this act, and for which certificate such physician shall pay the secretary of the State board of examiners a fee of two dollars, and said board shall issue to the applicant

such certificate, nor shall this apply to registered pharmacists when filling prescriptions, nor shall it be construed to interfere with the sale of patent or proprietary medicines in the regular course of trade.

SEC. 9. Any person who shall practice medicine or surgery within this State, without having complied with the provisions of this act, and who is not embraced in any of the exceptions or after being prohibited from so doing as provided in section 7 of this act, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days nor more than thirty days.

SEC. 10. Any person who shall file, or attempt to file, with the State board of examiners, as his or her own, the diploma of another person, or who shall file, or attempt to file with the county recorder the certificate of another person, as his or her own, or who shall file or attempt to file a diploma or certificate with the true name erased therefrom and the claimant's name inserted, or who shall file or attempt to file any forged affidavit or identification, shall be deemed guilty of the crime of forgery.

SEC. 11. The penalties, as provided in this act, or violations thereof, shall not be enforced prior to first day of January, A. D. 1877.

SEC. 12. All acts and parts of acts in conflict with this act are hereby repealed.

DRAINS, DITCHES AND WATER COURSES.

SEC. 1207. The board of supervisors of any county having a population of five thousand inhabitants, as shown by the last preceding census, may locate and cause to be constructed ditches or drains, or change the direction of any water-course in such county, whenever the same will be conducive to the public health, convenience, or welfare. —Code of 1873. [This section was amended by the Seventeenth General Assembly, so as to authorize the drains to pass through two or more counties, and the appointment of commissioners from each county. The Eighteenth General Assembly further amended the law, providing that the work should be done under the supervision of a competent engineer.]

[Chapter 139, Laws of 1886.]

AN ACT to Repeal Section 1214, Chapter 2, Title 10 of the Code, in relation to Drains and Ditches and to Enact a Substitute therefor.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That section 1214 of chapter 2, title 10 of the Code, be and the same is hereby repealed and the following enacted in lieu thereof.

SEC. 1214. Whenever any such ditch, drain or change in the direction of any water course, shall have been located and established, as provided in the preceeding section, or when it shall be necessary, to cause any such ditches, drains or water courses to be reopened and repaired, the auditor shall commission and appoint six disinterested freeholders of the county, not interested in a like question, who shall within twenty days after such appointment, personally inspect and classify as "dry," "low," "wet" or "swamp," all land benefited by the location and construction of such ditch, drain or water course, or the repairing or reopening of the same and shall make an equitable apportion-

ment of the cost, expenses, costs of construction, fees and compensation for property appropriated or damages sustained by the construction of any such ditch, drain, change of direction of such water course or of repairing and reopening the same and make report thereof in writing to the board of supervisors, which apportionment shall accrue and be assessed among the owners of the land benefitted by the location, construction or the reopening and repairing of such ditch, drain or water course, in proportion to the benefit to each of them through along the line or in the vicinity of whose lands the same may be located, constructed or reopened and repaired respectively and the same may be levied upon the lands of the owners so benefitted, in said proportions and collected in the same manner that other taxes are levied and collected for county purposes and the amounts so assessed and collected shall be paid out of the county treasury, from the funds collected for that purpose on the order of the county auditor and said commissioners shall receive for each day's service when so engaged, two dollars to be paid out of the funds so collected. Any such ditch, drain or water course, which is now or may hereafter be constructed, so as to prevent the surplus and overflow waters from the adjacent land from entering the same, is hereby declared a nuisance and the same may be abated as provided in title 20, chapter 5, of the Code of Iowa, and the diverting, obstructing, impeding or filling up of such drains, ditches, or water courses in any manner by any person, without legal authority is hereby declared a nuisance and any person convicted of such crime, shall be punished as provided in title 24, chapter 15, of the Code for the punishment of nuisances. Nothing in this chapter contained shall be construed so as to prohibit any land owner from appealing from the order of the board in assessing his land, for any of the purposes mentioned in this section, to the circuit court of the county, in the same manner that appeals are taken in the location of highways, nor shall the same be construed so as to prohibit the maintenance of an action for the recovery of any taxes erroneously or wrongfully assessed, for any of the purposes mentioned in this section and in order to show that such assessment was erroneous or wrongful, it shall only be necessary to prove that such lands so assessed were not benefitted by the location, construction or maintenance, of such ditch, drain or water course.

[Chapter 55, Laws of 1886,]

AN ACT to allow Underground Tile Drain across Public Highway, and Defining the Duties of Road Supervisors relative to the same, and Repeal Section 1225, Chapter 2, Title 10, of Code of Iowa.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. When any water course or natural drain crosses any public highway in the State of Iowa, and the adjoining or abutting land owner wishes to cross said highway with an underground tile drain for an outlet, or to connect with another underground tile drain, they shall notify the road supervisor having supervision over that public highway to be crossed, in writing, specify the depth of drain and size of tile to be used in crossing said highway, and give the road supervisor twenty days time to construct said underground tile drain.

SEC. 2. When the road supervisor receives said written notice, he shall order said underground tile drain constructed across said highway, and pay for the tile and construction of the same out of any money or fund in his command.

SEC. 3. If the supervisor fails to construct said underground tile drain within the twenty days time, then the abutting or adjoining land owner may go upon the highway and construct said underground tile drain across said highway, and he shall receive pay for constructing the same, including tile used in crossing said highway, out of any money or fund belonging to such road district, provided he shall leave the highway in as good condition as it was before the drain was constructed.

SEC. 4. That section 1225, chapter 2, title 10, of the Code of Iowa, is hereby repealed.

Approved March 30, 1886.

STATE MINE INSPECTORS.

[Chapter 104, Laws of 1886.]

AN ACT to repeal sections 1, 2, 3, 4, 5 and 6 of Chapter 21, Acts of the Twentieth General Assembly, and Enact Substitutes therefor Providing for Mine Inspectors, their Manner of Appointment, compensation and Defining their Duties and Terms of Office.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That there shall be appointed by the governor with the advice and consent of the senate, three inspectors of mines who shall hold their office for two years. The said inspectors subject however to be removed by the governor for neglect of duty or malfeasance in office. Said term of office shall commence on the first day of April of each even numbered years. Said inspectors shall have a theoretical and practical knowledge of the different systems of working and ventilating coal mines, and of the nature and properties of the noxious and poisonous gases of mines and of mining engineering; and said inspectors before entering upon the discharge of their duties shall take an oath or affirmation to discharge the same faithfully and impartially, which oaths or affirmations shall be endorsed upon their commissions, and their commissions so endorsed shall be forthwith recorded in the office of the secretary of state, and such inspectors shall each give bonds in the sum of two thousand (2,000) dollars, with sureties to the approval of the governor, conditioned for the faithful discharge of their duties. The governor shall divide the State into inspection districts and shall assign the inspectors to duty in such place or districts as he shall deem proper.

SEC. 2. Said inspectors shall give their whole time and attention to the duties of their office respectively and shall examine all the mines in this State as often as their duties will permit, to see that the provisions of this act are obeyed, and it shall be lawful for such inspectors to enter, inspect and examine any mine in this State, and the works and machinery belonging thereto, at all reasonable times by night or by day, but so as not to unnecessarily obstruct or impede the working of the mines, and to make inquiry and examination into the state and condition of the mine as to ventilation and general security as required by the provisions of this act. The inspectors shall make a record of all examinations of mines inspected by them, showing the date when made, the condition in which the mines are found, the extent to which the laws relating to mines and mining are observed or violated, the progress made in the improvement and security of life and health sought to be secured by the provisions of this chapter, number of accidents, injuries or deaths in or about the mines; the number of mines visited, the number of persons employed in or

about the mines, together with all such facts and information of public interest concerning the condition of mines as they may think useful and proper, or so much thereof as may be of public interest to be included in their biennial report. The owner and agents of all coal mines are hereby required to furnish the means necessary for such inspection, and it shall be the duty of the person having charge of any mine, whenever any loss of life shall occur by accident connected with the workings of such mine to give notice forthwith by mail or otherwise to the inspector of mines of his district and to the coroner of the county in which such mine is situated, and the coroner shall hold an inquest on the body of the person or persons whose death has been caused, and inquire carefully into the cause thereof and shall return a copy of the verdict and all testimony to the said inspector. No person having a personal interest in or employed in a mine where a fatal accident occurs shall be qualified to serve on the jury empaneled on the inquest and the owner or agent of all coal mines shall report to the inspector all accidents to miners in and around the mines, giving cause of same, such report to be made in writing and within ten days from the time any accident occurs.

[Chapter 21, Laws of 1884.]

SEC. 8. It shall be unlawful for the owner or agent of any coal mine worked by a shaft, to employ or permit any person to work therein unless there are to every seam of coal worked in such mine, at least two separate outlets, separated by natural strata of not less than one hundred feet in breadth, by which shafts or outlets distinct means of ingress and egress are always available to the persons employed in the mine, but in no case shall a furnace shaft be used as an escape shaft, and if the mine is a slope or drift opening, the escape shall be separated from the other openings by not less than fifty feet of natural strata; and shall be provided with safe and available traveling ways, and the traveling ways to the escapes in all coal mines shall be kept free from water and falls of roof; and all escape shafts shall be fitted with safe and convenient stairs at an angle of not more than sixty degrees descent, and with landings at easy and convenient distances, so as to furnish easy escape from such mine, and all air shafts used as escapes where fans are employed for ventilation, shall be provided with suitable appliances for hoisting the underground workmen; said appliances to be always kept at the mine ready for immediate use; and in no case shall any combustible material be allowed between any escape shaft and hoisting shaft, except such as is absolutely necessary for operation of the mine; *provided*, that where a furnace shaft is large enough to admit of being divided into an escape shaft and a furnace shaft, there may be a partition placed in said shaft, properly constructed so as to exclude the heated air and smoke from the side of the shaft used as an escape shaft, such partition to be built of incombustible material for a distance of not less than fifteen feet up from the bottom thereof; and *provided*, that where two or more mines are connected underground, each owner may make joint provisions with the other owner for the use of the other's hoisting shaft or slope as an escape, and in that event the owners thereof shall be deemed to have complied with the requirements of this section. And *provided further*, that in any case where the escape shaft is now situated less than one hundred feet from the hoisting shaft there may be provided a properly constructed underground traveling way from the top of the escape shaft, so as to furnish the proper protection

from fire, for a distance of one hundred feet from the hoisting shaft; and in that event the owner or agent of any such mine shall be deemed to have complied with the requirements of this section; and *provided further*, that this act shall not apply to mines operated by slopes or drift openings where not more than five persons are employed therein.

SEC. 9. In all mines there shall be allowed one year to make outlets as provided in section eight when such mine is under two hundred feet in depth, and two years when such mine is over two hundred feet in depth; but not more than twenty men shall be employed in such mine at any one time until the provisions of section eight are complied with, and after the expiration of the period above mentioned should said mines not have the outlets aforesaid, they shall not be operated until made to conform to the provisions of section eight.

SEC. 10. The owner or agent of every coal mine, whether it be operated by shaft, slope, or drift, shall provide and maintain for every such mine an amount of ventilation of not less than one hundred cubic feet of air per minute for each person employed in such mine, and not less than five hundred cubic feet of air per minute for each mule or horse employed in the same, which shall be distributed and circulated throughout the mine in such manner as to dilute, render harmless and expel the poisonous and noxious gases from each and every working place in the mine. And all mines governed by the provisions of this act, shall be provided with artificial means for producing ventilation, such as exhaust or forcing fans, furnaces or exhaust steam, or other contrivances of such capacity and power as to produce and maintain an abundant supply of air for all the requirements of the persons employed in the mine; but in case a furnace is used for ventilating purposes it shall be built in such manner as to prevent the communication of fire to any part of the works by lining the up-cast with incombustible material for a sufficient distance up from said furnace to ensure safety.

SEC. 11. The owner or agent of every coal mine operated by a shaft or slope, in all cases where the human voice cannot be distinctly heard, shall forthwith provide and maintain a metal tube, or other suitable means for communication from the top to the bottom of said shaft or slope, suitably calculated for the free passage of sound therein, so that communication can be held between persons at the bottom and top of the shaft or slope. And there shall be provided a safety catch of approved pattern and a sufficient cover overhead on all carriages used for lowering and hoisting persons, and on the top of every shaft an approved safety gate, and also approved safety spring on the top of every slope, and an adequate brake shall be attached to every drum or machine used for raising or lowering persons in all shafts or slopes, and a trail shall be attached to every train used on a slope, all of said appliances to be subject to the approval of the inspector.

SEC. 12. No owner or agent of any coal mine operated by shaft or slope shall knowingly place in charge of any engine used for lowering into or hoisting out of such mine persons employed therein, any but experienced, competent and sober engineers, and no engineer in charge of such engine shall allow any person except such as may be deputed for that purpose by the owner or agent, to interfere with it or any part of the machinery; and no person shall interfere or in any way intimidate the engineer in the discharge of his duties; and the

maximum number of persons to ascend out of or descend into any coal mine on one cage shall be determined by the inspector, but in no case shall such number exceed ten, and no person shall ride upon or against any loaded cage or car in any shaft or slope except the conductor in charge of the train.

SEC. 13. No boy under twelve years of age shall be permitted to work in any mine; and parents or guardians of boys shall be required to furnish an affidavit as to the ages of their boys when there is any doubt in regard to their age and in all cases of minors applying for work the agent or owner of the mines shall see that the provisions of this section *is* [are] not violated.

SEC. 14. In case any coal mine does not, in its appliances for the safety of the persons working therein, conform to the provisions of this act, or the owner or agent disregards the requirements of this act for twenty days after being notified by the inspector, any court of competent jurisdiction, while in session or the judges in vacation, may, on application of the inspector, by civil action in the name of the State, enjoin or restrain by writ of injunction, the said agent or owner from working or operating such mines with more than ten persons at once, except as provided in sections eight and nine, until it is made to conform with the provisions of this act, and such remedies shall be cumulative and shall not take the place of, or affect any other proceedings against such owner or agent authorized by law, for the matter complained of in such action; and for any wilful failure or neglect to comply with the provisions of this law by any owner, lessee, or operator of any coal mine or opening whereby any one is injured, a right of action shall accrue to the party so injured for any damage he may have sustained thereby; and in case of loss of life by reason of such willful neglect or failure aforesaid, a right of action shall accrue to the widow if living, and if not living, to the children of the person whose life shall be lost, for like recovery of damages for the injury they shall have sustained.

SEC. 15. Any miner, workman or other person who shall knowingly injure or interfere with any air-course or brattice, or obstruct, or throw open doors, or disturb any part of the machinery, or disobey any order given in carrying out the provisions of this act, or ride upon a loaded car or wagon in a shaft or slope except as provided in section twelve, or do any act whereby the lives and health of the persons, or the security of the mines and machinery is endangered; or if any miner or person employed in any mine governed by the provisions of this act, shall neglect or refuse to securely prop or support the roof and entries under his control, or neglect or refuse to obey any order given by the superintendent in relation to the security of the mine in the part of the mine under his charge or control, every such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

SEC. 18. The owner, agent or operator of any coal mine shall keep a sufficient supply of timber to be used as props, so that the workmen may at all times be able to properly secure the workings from caving in, and it shall be the duty of the owner, agent or operator to send down all such props when required.

SEC. 19. Any person wilfully neglecting or refusing to comply with the provisions of this act when notified by the mine inspector to comply with such provisions, shall be deemed guilty of a misdemeanor, and upon conviction

thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, except when different penalties are herein provided.

INSPECTION OF KEROSENE OIL.*

[Chapter 185—Acts of Twentieth General Assembly.]

AN ACT to provide for the inspection and to regulate the sale of petroleum and its products, and to repeal Chapter 172 of the Acts of the Seventeenth General Assembly, and Section 3901 of the Code, as amended by Chapter 149, Laws of the Twenty-first General Assembly.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That the governor, by and with the advice and consent of the senate, shall appoint a suitable person, resident of the State, who is not interested in manufacturing, dealing in, or vending any illuminating oils manufactured from petroleum, as State inspector of oils, whose term of office shall commence on the first day of April of each even-numbered year, and continue for the term of two years and until his successor is appointed and qualified. It shall be the duty of such State inspector, by himself or his deputies, hereinafter provided for, to examine and test the quality of all such oils offered for sale by any manufacturer, vender, or dealer; and if upon such testing or examination the oils shall meet the requirements hereafter specified, he shall fix his brand or device. "*Approved flush test—degrees*" (inserting the number of degrees), with the date over his official signature, upon the package, barrel or cask containing the same. And it shall be lawful for the State inspector, or his deputies, to enter into or upon the premises of any manufacturer, vender or dealer of said oils, and if they shall find or discover any kerosene oil, or any other product of petroleum kept for illuminating purposes, that has not been inspected and branded according to the provisions of this act, they shall proceed to inspect and brand the same. It shall be lawful for any manufacturer, vender or dealer to sell the oil so tested and approved as an illuminator; but if the oil or other product of petroleum so tested shall not meet said requirements, he shall mark in plain letters on said package, barrel or cask, over his official signature, the words: "*Rejected for illuminating purposes, flush, test—degrees*" (inserting the number of degrees). And it shall be unlawful for the owner thereof to sell such oil or other product of petroleum for illuminating purposes. And if any person shall sell or offer for sale any of such rejected oil or other product of petroleum for such purpose, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a penalty not exceeding three hundred dollars.

SEC. 2. The State inspector provided for in this act is authorized to appoint a suitable number of deputies, which deputies are empowered to perform the duties of inspection, and shall be liable to the same penalties as the State inspector; *provided*, that the State inspector may remove any of said deputies for reasonable cause. It shall be the duty of the inspector and his deputies to provide themselves at their own expense with the necessary instruments and apparatus for testing the quality of said illuminating oils, and when called upon for that purpose to promptly inspect all oils heretofore mentioned, and to

*This law is here given as amended by the Twenty-first General Assembly, and as it is in force at the present time.

reject for illuminating purposes all oils which will emit a combustible vapor at a temperature of one hundred and five degrees standard Fahrenheit thermometer, closed test, provided the quality of oil used in the flash test shall not be less than one half pint. The oil tester adopted and recommended by the Iowa State board of health shall be used by the inspector and his deputies in all tests made by them. And said board shall prepare rules and regulations as to the manner of inspection, which rules and regulations shall be in effect and binding upon the inspector and deputies appointed under this act.

SEC. 3. The State inspector before he enters upon the discharge of the duties of his office shall take the oath or affirmation provided by law, and file the same in the office of the secretary of State, and execute a bond to the State of Iowa in a penal sum of not less than twenty thousand dollars with sureties thereto, to be approved by the secretary of State, who shall justify as provided by law, and in addition thereto state under oath that they are not interested, directly or indirectly, in manufacturing, dealing in, or vending any illuminating oils, manufactured from petroleum; such bond to be conditioned for the faithful performance of the duties imposed upon him by this act, and which shall be for the use of all persons aggrieved by the acts of said inspector, or his deputies, and the same shall be filed with the secretary of State. Every deputy inspector shall take a like oath or affirmation prescribed herein for the State inspector, and execute to the State a bond in the penal sum of five thousand dollars with like conditions and for like purposes, and with sureties thereto who shall justify and have like qualifications as herein provided for the sureties for State inspector and such sureties shall be approved by the clerk of the district court of the county in which such deputy inspector resides, and said bond and oath shall be filed in the office of such clerk and such deputy inspector shall before entering upon the discharge of his duties forward said clerk's certificate of such filing to the secretary of State to be placed on file.

SEC. 4. All inspections herein provided for shall be made within the State of Iowa, and the inspector and deputy inspectors shall be entitled to demand and receive from the owner or party calling on him or for whom he shall perform the inspection the sum of ten cents per barrel, and for the purposes of this act, a barrel shall be deemed fifty-five gallons.

SEC. 5. It shall be the duty of the State inspector and every deputy inspector to keep a true and accurate record of all oils so inspected and branded by him, which record shall state the date of inspection, the number of gallons rejected, the number of gallons approved, the number of gallons inspected, the number and kind of barrels, casks or packages, the name of the person for whom inspected and the amount of money received for such inspection, and such record shall be open to the inspection of all persons interested; and every deputy inspector shall return a true copy of such record at the beginning of each month to the State inspector. It shall be the duty of the State inspector to make and deliver to the State auditor for the fiscal period ending the thirtieth day of June, 1885, and every two years thereafter a report of the inspections made by himself and deputies for such period, containing the information and items required in this act to be made of record, and the same shall be laid before the General Assembly.

SEC. 6. If any person or persons, whether manufacturer, vendee[er] or dealer shall sell or attempt to sell to any person in this State any illuminating

oil, the product of petroleum, whether manufactured in this State or not, which has not been inspected as provided in this act, he shall be deemed guilty of a misdemeanor and subject to a penalty in any sum not exceeding three hundred dollars, and if any manufacturer, vender or dealer in either or any of said illuminating oils shall falsely brand the package, cask or barrel containing the same, as provided in this act, or shall refill-packages, casks or barrels having the inspector's brand thereon, without erasing such brand, having the oil inspected, and such packages, casks or barrels rebranded, he shall be deemed guilty of a misdemeanor, and shall be subject to a penalty not exceeding three hundred dollars, or be imprisoned in the county jail not exceeding six months or both in the discretion of the court.

SEC. 7. Any person selling or dealing in illuminating oils produced from petroleum who shall purchase, sell or dispose of any empty kerosene barrel, cask or package, before thoroughly canceling, removing or effacing the inspection brand on the same, shall be guilty of a misdemeanor, and, on conviction thereof, shall pay a fine of one dollar for each barrel, cask or package thus sold or disposed of; and any person who shall knowingly use any illuminating oil, the product of petroleum for illuminating purposes, before the same has been approved by the State inspector of oils, or his deputy, shall be guilty of a misdemeanor, and, on conviction thereof, shall pay a fine in any sum not exceeding ten dollars, for each offense.

SEC. 8. No person shall adulterate with paraffine or other substance, for the purpose of sale or for use, any coal or kerosene oils to be used for lights, in such a manner as to render them dangerous to use; nor shall any person knowingly sell or offer for sale, or knowingly use any coal or kerosene oil, or any product of petroleum, for illuminating purposes, which, by reason of being adulterated, or for any other reason, will emit a combustible vapor at a temperature less than 105 degrees of standard Fahrenheit's thermometer, tested as provided in this act; *provided*, that the gas or vapor from said oils may be used for illuminating purposes when the oils from which said gas or vapor is generated are contained in closed reservoirs outside the building illuminated or lighted by said gas. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail not more than one year, or by fine not exceeding \$500, or by both such fine and imprisonment, in the discretion of the court; *provided, further*, that nothing in this act shall be so construed as to prevent the sale for and use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole, naptha, or to prevent the use of machines or generators constructed on the principal of the "Davy safety lamp."

SEC. 9. It shall be the duty of the State inspector, and of any deputy inspector, who shall know of the violation of any of the provisions of this act, to prosecute before a court of competent jurisdiction any person so offending. And in case the State inspector, or any deputy inspector, having knowledge of the violation of the provisions of this act, shall neglect to prosecute as required herein, he shall be deemed guilty of a misdemeanor and punished accordingly, and, upon conviction, shall be removed from office.

SEC. 10. No oil, nor fluid, whether composed wholly or in part of petroleum or its products, or of other substance or material, which will ignite and burn at a temperature of 300 degrees of the standard Fahrenheit thermometer, open

test, shall be carried as freight, nor shall the same be burned in any lamp, or vessel, or stationary fixture of any kind, in any passenger, baggage, mail or express car on any railroad, nor on any passenger boat moved by steam power, nor in any street railway car, stage coach, omnibus or other public conveyance in which passengers are carried, within the State. Any violation of the provisions of this section shall be deemed a misdemeanor, and the offender shall, on conviction thereof, be fined not less than one hundred dollars, nor more than one thousand dollars, and shall be liable for all damages resulting therefrom.

SEC. 11. If any inspector or deputy shall falsely brand or mark any barrel, cask or package, or be guilty of any fraud, deceit, misconduct or culpable negligence in the discharge of his official duties, or shall deal in, or have any pecuniary interest, directly or indirectly, in any oils or fluids used or sold for illuminating purposes while holding such office, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding thirty days, and be liable to the party injured for all damages resulting therefrom.

SEC. 12. It shall be the duty of the governor to remove from office, and to appoint a competent person in the place of, any inspector who is unfaithful in the duty of his office.

SEC. 13. Any person who shall knowingly or negligently sell or cause to be sold any of the oils mentioned in this act for illuminating purposes, except for the purposes herein authorized, which are below the standard and test required in this act, shall be liable to any one purchasing said oil, or to any person injured thereby for all damages resulting from any explosion of said oil.

SEC. 14. Within sixty days after the passage of this act the State board of health shall make and provide the necessary rules and regulations for the inspection of illuminating oil, and for the government of the inspector and deputy inspectors provided for in this act, and as contemplated by the provisions of this act, which shall be approved by the governor of the State, and when so approved shall be furnished by said board to the inspector and his deputies. When written complaint shall be presented to the governor charging the inspector or any deputy with a failure or a refusal to comply with or carry out said rules and regulations, or any provision of this act, he shall investigate such charge, and if well founded and sustained, the person against whom said charges were made shall be removed from office by the governor without delay. Said rules and regulations may be changed or modified by said board, subject to approval of the governor, not oftener than once a year.

SEC. 15. Chapter 172 of the acts of the Seventeenth General Assembly, and section 3901 of the Code, are hereby repealed.

DISEASED ANIMALS.

[Chapter 189, Laws of 1884.]

AN ACT for the Appointment of a State Veterinary Surgeon and Defining his Duties.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. The governor shall appoint a State veterinary surgeon, who shall hold his office for the term of three years unless sooner removed by the governor; he shall be a graduate of some regular and established veterinary college, and shall be skilled in veterinary science; he shall be a member of the

State board of health, which membership shall be in addition to that now provided by law. When actually engaged in the discharge of his official duties he shall receive from the State treasury as his compensation the sum of five dollars per day and his actual expenses, which shall be presented under oath and covered by written vouchers before receiving the same.

SEC. 2. He shall have general supervision of all contagious and infectious diseases among domestic animals within or that may be in transit through the State, and he is empowered to establish quarantine against animals thus diseased, or that have been exposed to others thus diseased, whether within or without the State, and he may with the concurrence of the State board of health, make rules and regulations such as he may deem necessary for the prevention, against the spread, and for the suppression of said disease or diseases, which rules and regulations, after the concurrence of the governor and executive council, shall be published and enforced, and in doing said things he shall have power to call on any one or more peace officers, whose duty it shall be to give him all assistance in their power.

SEC. 3. Any person who wilfully hinders, obstructs or resists said veterinary surgeon or his assistants, or any peace officer acting under him or them when engaged in the duties or exercising the powers herein conferred, shall be guilty of a misdemeanor and punished accordingly.

SEC. 4. Said veterinary surgeon shall on or before the 30th of June of each year, make a full and detailed report of all and singular his doings since his last report to the governor, including his compensation and expenses, and the report shall not exceed one hundred and fifty pages of printed matter.

SEC. 5. Whenever the majority of any board of supervisors, city council, trustees of an incorporated town or township trustees, whether in session or not, shall in writing notify the governor of the prevalence of, or probable danger from, any of said diseases, he shall notify the State veterinary surgeon who shall at once repair to the place designated in said notice and take such action as the exigencies may demand, and the governor may in case of emergency appoint a substitute or assistants, with equal powers and compensation.

SEC. 6. Whenever in the opinion of the State veterinary surgeon the public safety demands the destruction of any stock under the provisions of this act, he shall, unless the owner or owners consent to such destruction, notify the governor, who may appoint two competent veterinary surgeons as advisers, and no stock shall be destroyed except upon the written order of the State veterinary surgeon countersigned by them and approved by the governor, and the owners of all stock destroyed under the provisions of this act, except as hereinafter provided, shall be entitled to receive a reasonable compensation therefor; but not more than its actual value in its condition when condemned, which shall be ascertained and fixed by the State veterinary surgeon and the nearest justice of the peace, who if unable to agree shall jointly select another justice of the peace as umpire, and their judgment shall be final when the value or the stock does not exceed one hundred dollars, but in all other cases either party shall have the right to appeal to the circuit court, but such appeal shall not delay the destruction of the diseased animals. The State veterinary surgeon shall, as soon thereafter as may be, file his written report thereof with the governor, who shall, if found correct, endorse his findings thereon, whereupon the auditor of state shall issue his warrant therefor upon the treasurer of state

who shall pay the same out of any moneys at his disposal under the provisions of this act; *provided*, that no compensation shall be allowed for any stock destroyed while in transit through or across the State, and that the word stock, as herein used, shall be held to include only neat cattle and horses.

SEC. 7. The governor of the State, with the State veterinary surgeon, may co-operate with the government of the United States for the objects of this act, and the governor is hereby authorized to receive and receipt for any moneys receivable by this State under the provisions of any act of congress which may at any time be in force upon this subject, and to pay the same into the State treasury to be used according to the act of congress and the provisions of this act as nearly as may be.

SEC. 8. There is hereby appropriated out of any moneys not otherwise appropriated the sum of ten thousand dollars for use in 1884 and 1885, and three thousand dollars annually thereafter, or so much thereof as may be necessary for the uses and purposes herein set forth.

SEC. 9. Any person, except the veterinary surgeons, called upon under the provisions of this act shall be allowed and receive two dollars per day while actually employed.

Approved April 14, 1884.

[Chapter 156, Laws of 1886.]

AN ACT to amend Chapter 11, Title 24 of the Code, Relating to Contagious diseases in Domestic Animals.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That sections 4058, and 4059 in chapter 11, title 24 of the code be hereby repealed, and sections 2 and 3 of this act be substituted therefor, and be known hereafter as sections 4058 and 4059 of the code.

SEC. 2. Be it enacted, "section 4058. Any person or persons driving any cattle into this State, or any agent, servant or employe of any railroad or other corporation who shall carry, transport or ship any cattle into this State, or any railroad company, or other corporation or person who shall carry, ship or deliver any cattle into this State, or the owners, controllers, leasees, or agents or employes of any stock yards, receiving into such stock yards or in any other enclosures for the detention of cattle in transit, or shipment, or re-shipment or sale, any cattle brought or shipped in any manner into this State, which at the time they were either driven, brought, shipped or transported into this State were in such condition as to infect with or to communicate to other cattle, pleuro pneumonia, or splenic or Texas fever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than three hundred dollars and not more than one thousand dollars, or by both fine and imprisonment in the county jail not exceeding six months in the discretion of the court.

SEC. 3. Be it enacted; Section 4059, Any person who shall be injured or damaged by any of the acts of the persons named in section 4058, and which are prohibited by such section, in addition to the remedy therein provided, may bring an action at law against any such persons, agents, employes or corporations mentioned therein, and recover the actual damages sustained by the person or persons so injured, and neither said criminal proceeding nor said civil action, in any stage of the same be a bar to a conviction or to a recovery in the other."

Approved April 10, 1886.

SEC. 4055. If the owner of sheep, or any person having the same in charge, knowingly import or drive into this State, sheep having any contagious disease; or turn out, or suffer any sheep having any contagious disease, knowing the same to be so diseased, to run at large upon any common highway, or unenclosed lands; or sell or dispose of any sheep, knowing the same to be so diseased, he shall be deemed guilty of a misdemeanor, and punished by a fine in any sum not less than fifty dollars nor more than one hundred dollars.—*Code of 1873.*

SEC. 4056. If any person knowingly import or bring within this State, any horse, mule or ass, affected by the disease known as nasal gleet, glanders or button-farcy, or suffer the same to run at large upon any common highway or unenclosed land, or use or tie the same in any public place, or off his own premises, or sell, trade, or offer for sale or trade, any such horse, mule or ass, knowing the same to be so diseased, he shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred dollars; and in default of payment shall be imprisoned for any period not exceeding twelve months, or by both fine and imprisonment, at the discretion of the court.—*Code of 1873.*

SEC. 4057. If any horse, mule or ass, reasonably supposed to be diseased with nasal gleet, glanders or button-farcy, be found running at large without any known owner, it shall be lawful for the finder thereof to take such horse, mule or ass, so found, before some justice of the peace, who shall forthwith cause the same to be examined by some veterinary surgeon, or other person skilled in such diseases, and if, on examination, it is ascertained to be so diseased, it shall be lawful for such justice of the peace to order such diseased animal to be immediately destroyed and buried; and the necessary expense accruing under the provisions of this act shall be defrayed out of the county treasury. (1)—*Code of 1873.*

SEC. 1484. The sheriff, constable, police officer, officer of any society for the prevention of cruelty to animals, or any magistrate, shall destroy any horse or other animal having the disease called and known as glanders, or any disabled creature unfit for other use.—*Code of 1873.*

PHARMACY AND THE SALE OF MEDICINE AND POISONS.

[Chapter 75, Laws of 1878, as amended by Chapter 137, Laws of 1882.]

AN ACT to Regulate the Practice of Pharmacy, and the Sale of Medicines and Poisons.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa:* That from and after the passage of this act it shall be unlawful for any person,

(1) As to whether or not animals affected with a contagious disease, may be summarily destroyed, the general rule seems to be that so long as the owner restrains the animal upon his own premises no person has the right to kill them; but if they are suffered to go at large, or if they escape from their owner's custody, the owner of the premises upon which they escape may kill them if necessary for the protection of his own animals. (2) In the case of a horse or other animal affected with glanders, which is recognized by the courts as an incurable disease, (3) and one which may communicate all its loathsomeness and fatality to human beings. A board of health would unquestionably be sustained by the courts in destroying them wherever found, if they deemed it necessary to protect the public health. after giving notice to the owner, if he can be found.

(2) Wood on Nuisances, Sec. 837.

(3) Hanover's Law of Horses, p. 76.

not a registered pharmacist within the meaning of this act, to conduct any pharmacy, drug store, apothecary shop or store for the purpose of retailing, compounding or dispensing medicines or poisons for medicinal use, except as hereinafter provided.

SEC. 2. That it shall be unlawful for the proprietor of any store or pharmacy to allow any person, except a registered pharmacist, to compound or dispense the prescriptions of physicians, or to retail or dispense poisons for medical use, except as an aid to, and under the supervision of, a registered pharmacist. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine of not less than twenty-five dollars, nor more than one hundred dollars, for each and every such offense.

SEC. 3. The governor, with the advice of the executive council, shall appoint three persons from the most competent pharmacists of the State, all of whom shall have been residents of the State for five years, and of at least five years practical experience in their profession, who shall be known and styled as Commissioners of Pharmacy, for the State of Iowa; one of whom shall hold his office for one year, one for two years, and the other for three years, and each until his successor shall be appointed and qualified; and each year thereafter another commissioner shall be so appointed for three years, and until a successor be appointed and qualified. If a vacancy occur in said commission, another shall be appointed, as aforesaid, to fill the unexpired term thereof. Said commissioners shall have power to make by-laws and all necessary regulations for the proper fulfillment of their duties under this act, without expense to the State.

SEC. 4. The commissioners of pharmacy shall register in a suitable book, a duplicate of which is to be kept in the secretary of State's office, the names and places of residence of all persons to whom they issue certificates, and dates thereof. Druggists and pharmacists who were registered without examination forfeit their registration when they have voluntarily sold, parted with, or severed their connection with the drug business for a period of two years at the place designated in certificate of registration; should such party who has thus forfeited his resignation wish to re-engage in the practice of pharmacy, he is required to be registered by examination as per section 5. Every registered pharmacist who desires to continue his profession shall, on or before the 22d day of March of each year, pay to the commission of pharmacy the sum of one dollar, for which he shall receive a renewal of his certificate, unless his name has been stricken from the register for violation of law. It shall be the duty of each registered pharmacist, before changing his locality as designated in his certificate of registration, to notify the secretary of the commission of pharmacy of his new place of business, and for recording the same and certification thereto the secretary shall be entitled to receive fifty cents for each certificate. It shall be the duty of every registered pharmacist to conspicuously post his certificate of registration in his place of business. Any person continuing in business, who shall fail or neglect to procure his annual renewal of registration, or who shall change his place of business without complying with this section, or who shall fail to conspicuously post his certificate of registration in his place of business, shall for each such offense be liable to a fine of ten dollars for each calendar month so delinquent.

SEC. 5. That the said commissioners of pharmacy shall, upon application, and at such time and place and in such manner as they may determine examine, either by a schedule of questions, to be answered and subscribed to under oath, or orally, each and every person who shall desire to conduct the business of selling at retail, compounding, or dispensing drugs, medicines or chemicals for medicinal use, or compounding and dispensing physicians' prescriptions as pharmacists, and if a majority of said commissioners shall be satisfied that said person is competent and fully qualified to conduct said business of compounding and dispensing drugs, medicines, or chemicals for medicinal use, or to compound and dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist in the book provided for in section 4 of this act; and all graduates in pharmacy, having a diploma from an incorporated college or school of pharmacy, that requires a practical experience in pharmacy of not less than four years before granting a diploma, shall be entitled to have their names registered as pharmacists by said commissioners of pharmacy, without examination.

SEC. 6. That the commissioners of pharmacy shall be entitled to demand and receive from each person whom they register and furnish a certificate as a registered pharmacist, without examination, the sum of two dollars; and from each and every person whom they examine orally, or whose answers to a schedule of questions are returned subscribed to under oath, the sum of five dollars, which shall be in full for all services. And in case the examination of said person shall prove defective and unsatisfactory, and his name not be registered, he shall be permitted to present himself for re-examination within any period not exceeding twelve months next thereafter, and no charge shall be made for such re-examination.

SEC. 7. Every registered pharmacist shall be held responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines"; and should he knowingly, intentionally, and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals, or medical preparations, he shall be deemed guilty of a misdemeanor, and upon conviction thereof be liable to a penalty not exceeding one hundred dollars, and in addition thereto his name be stricken from the register.

[SEC. 8. Pharmacists whose certificate of registration are in full force and effect, shall have the sole right to keep and to sell under such regulations as have been or may be established from time to time by the commissioners of pharmacy, all medicines and poisons, including intoxicating liquors only for the actual necessities of medicines: *provided* that such pharmacists shall have procured permits therefor as hereinafter prescribed. *Provided* further, that nothing herein contained shall be so construed as to *sheild* [shield] the person who in any wise abuses this trust, for the legitimate and actual necessities of medicine only, from the utmost rigors of the law, now or hereafter in force relating to intoxicating liquors, and in addition thereto, for a second violation thereof, his name shall be stricken from the register by the commissioners of pharmacy upon the receipt of transcript of conviction, which shall be transmitted by the court, or by order of the court before whom conviction is had. Twenty-five per cent of all moneys recovered as fines under the provisions of this act shall be paid into the State treasury, and reported to the State auditor,

and held subject to the order of the commissioners of pharmacy as needed, to be by them used solely to defray the expenses of prosecutions, under, and the enforcement of this act or acts to which this is amendatory. In order to procure a permit to sell intoxicating liquors as aforesaid and a shipping permit he shall present to such board of supervisors a petition signed by at least one-fourth of the freeholders having the qualification of electors of the township, town or ward wherein such business is located, certifying that the registered pharmacist applying is a person of good moral character, is not a minor and is, and for the six months last preceding has been lawfully conducting a pharmacy as proprietor in such township, town or ward, and that they believe him to be a proper person to buy and sell intoxicating liquors for the purposes named in this act. The board being satisfied that all the provisions of the law have been complied with, a permit shall be issued. *Provided*, however, that any resident of the township, town or ward, may appear and show cause why such permit should not be granted, and the same shall be refused unless the board are fully satisfied that all the requirements of the law have been complied with, ten days notice of the time of granting such permit having been given by publication in a newspaper published in the county or by posting notices in the township, town or ward in which the business is to be conducted. The county auditor shall issue to such pharmacist his certificate of registration and his permit to buy and sell, being in full force and effect, a permit to receive intoxicating liquors within the county in which he does business, and the presentation of said permit to any railway company, express company or common carrier within the borders or traversing the territory of the State, shall convey full authority to receive, transport and deliver, intoxicating liquors to the person named in such permit: *provided*, that such permit shall be for specified packages and kinds of liquors, and that a certified copy of such permit shall be kept on file in the office of the auditor issuing the same. The commissioners of pharmacy shall, on the revocation or forfeiture of any certificate of registration, subsequent to their last biennial report or abstract of the State pharmacy register, report such revocation or forfeiture to the county auditor of the county wherein such certificate was last in force. On or before the tenth day of each month said pharmacist shall make to the county auditor a complete report, verified by his affidavit specifically showing all sales of intoxicating liquors made during the preceding calendar month, to whom sold, and the purpose for which the same was to be used as represented by duplicate applications executed by each purchaser. The registered pharmacist to whom application is made shall refuse to execute same, if he has reason to believe that the application is not made in good faith, and that the liquor would be used as a beverage. He shall not accept an application from a minor or from any person who is in the habit of becoming intoxicated, or when any relative of such person has given written notice to said pharmacist that such person uses intoxicating liquors as a beverage. The drinking of intoxicating liquors in a pharmacy, whether under a permit or not shall be presumptive evidence that the same was sold or given away by such pharmacist contrary to law.] *Chap. 83, Laws 1886.*

SEC. 9. It shall be unlawful for any person from and after the passage of this act, to retail any poisons enumerated in schedules "A" and "B," except as follows:

SCHEDULE A.

Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetables alkaloids, and their salts; essential oil of bitter almonds, opium and its preparations, except paregoric, and other preparations of opium containing less than two grains to the ounce.

SCHEDULE B.

Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, oxalic acid, without distinctly labeling the box, vessel or paper in which said poison is contained, and also the outside wrapper or cover, with the name of the article, the word "poison," and name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poisons enumerated in schedules "A" and "B" unless, upon due inquiry, it be found that the purchaser is aware of its poisonous character and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in schedule "A" without before delivering the same to the purchaser, causing an entry to be made, in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser; such book to be always open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses, upon the prescriptions of practitioners of medicine. Nor shall it be lawful for any licensed or registered druggist or pharmacist to retail, or sell, or give away, any alcoholic liquors or compounds as a beverage, and any violations of the provisions of this section shall make the owner or principal of said store of pharmacy liable to a fine of not less than twenty-five dollars, nor more than one hundred dollars, to be collected in the usual manner; and in addition thereto, for repeated violations of this section his name shall be stricken from the register.

SEC. 10. Any itinerate vender of any drug, nostrum, ointment or appliance of any kind, intended for the treatment of diseases or injury, who shall, by writing or printing, or any other method, publicly profess to cure or treat diseases, or injury or deformity, by any drug, nostrum, or manipulation or other expedient, shall pay a license of one hundred dollars per annum, to be paid to the treasurer of the commission of pharmacy, whereupon the secretary of said commission shall issue such license for one year. Any person violating this section shall be deemed guilty of a misdemeanor, and shall, upon conviction pay a fine of not less than one hundred nor more than two hundred dollars. All moneys received for licenses to be paid to the auditor of State. The sum of two thousand dollars per year, or so much thereof as may be necessary, is hereby appropriated out of the moneys so received for licenses for the expenses of said commission, all exceeding said amount to be paid into the State treasury.

SEC. 11. That any person who shall procure, or attempt to procure, registration for himself or another under this act, by making, or causing to be

made, any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five, nor more than one hundred dollars, and the name of the person so fraudulently registered shall be stricken from the register. Any person not a registered pharmacist, as provided for in this act, who shall conduct a store, pharmacy, or place for retailing, compounding, or dispensing drugs, medicines or chemicals, for medicinal use, or for compounding or dispensing physicians' prescriptions, or who shall take, use or exhibit the title of registered pharmacist, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of not less than fifty dollars, nor more than two hundred dollars.

["SEC. 12. Physicians dispensing their own prescriptions only, are not required to be registered pharmacists. *Provided*, that nothing in this act shall prevent any person not a registered pharmacist or not holding a permit, from keeping and selling proprietary medicines, and such other domestic remedies as do not include any intoxicating liquors or poisons."] —*Chap. 83, Laws 1886.*

TO REGULATE THE PRACTICE OF DENTISTRY.

[*Chap. 36, Laws of 1882.*]

AN ACT to Insure the Better Education of Practitioners of Dentistry in the State of Iowa.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa:* That it shall be unlawful for any person who is not at the time of the passage of this act engaged in the practice of dentistry in the State, to commence such practice unless such person shall have received a license from the board of examiners, or some member thereof as hereinafter provided, or a diploma from the faculty of some reputable dental college, duly authorized by the laws of the State, or by some other of the United States, or by the laws of some foreign country in which college or colleges, there was at the time of the issue of such diploma, annually delivered a full course of lectures and instructions in dental surgery.

SEC. 2. A board of examiners is hereby created, whose duty it shall be to carry out the purpose and enforce the provisions of this act. The members of such board shall be appointed by the governor, and shall consist of five practicing dentists, who shall have been engaged in the continuous practice of dentistry in the State for five years or over, at the time of or prior to the passage of this act. The term for which the members of said board shall hold their office shall be five years, except that the members of the board first appointed under this act shall hold their office for the term of one, two, three, four and five years, respectively, and until their successors shall be duly appointed. In case of vacancy occurring in said board, such vacancy shall be filled by the governor.

SEC. 3. Said board shall choose one of its members president, and one the secretary thereof, and it shall meet at least once in each year, and as much oftener and at such time and place as it may deem necessary. A majority of said board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection.

SEC. 4. It shall be the duty of every person who is engaged in the practice of dentistry in the State, within six months from the date of the taking effect of

this act, to cause his or her name and residence, or place of business, to be registered with the said board of examiners, who shall keep a book for that purpose, and every person who shall so register with said board as a practitioner of dentistry, may continue to practice the same as such without incurring any of the liabilities or penalties of this act.

SEC. 5. No person whose name is not registered on the books of said board as a regular practitioner of dentistry, within the limits prescribed in the preceding section, shall be permitted to practice dentistry in this State until such person shall have been duly examined by said board and regularly licensed in accordance with the provisions of this act.

SEC. 6. Any and all persons, who shall so desire, may appear before said board at any of its regular meetings, and be examined with reference to their knowledge and skill in dental surgery, and if such person shall be found, after having been so examined, to possess the requisite qualifications, said board shall issue a license to such person to practice dentistry in accordance with the provisions of this act. But said board shall at all times issue to any regular graduate of any reputable dental college without examination, upon the payment by such graduate to said board of a fee of one dollar. All licenses issued by said board shall be signed by the members thereof and be attested by the president and secretary; and such license shall be *prima facie* evidence of the right of the holder to practice dentistry in the State of Iowa.

SEC. 7. Any member of said board shall issue a temporary license to any applicant upon the presentation by such applicant of the evidence of the necessary qualification to practice dentistry; and such temporary license shall remain in force until the next regular meeting of said board, occurring after the date of such temporary license and no longer.

SEC. 8. Any person who shall violate any of the provisions of this act shall be liable to prosecution, before any court of competent jurisdiction, upon information, and upon conviction shall be fined not less than twenty-five dollars nor more than fifty dollars for each and every offense.

SEC. 9. In order to provide the means for carrying out and maintaining the provisions of this act, the said board of examiners may charge each person applying to, or appearing before them for examination for license to practice dentistry, a fee of two dollars, and out of the funds coming into the possession of the board from the fee so charged, the members of said board may receive as compensation the sum of five dollars for each day actually engaged in the duties of their office. And no part of the salary or other expenses of the board shall ever be paid out of the State treasury. All moneys received in excess of said per diem allowance shall be held by the secretary of said board, he giving such bond as the board shall from time to time direct. The said board shall make an annual report of its proceedings to the governor, by the fifteenth of November of each year, together with an account of all moneys received and disbursed by them pursuant to this act.

SEC. 10. Any person who shall be licensed by said board to practice dentistry, shall cause his or her license to be registered with the county clerk of any county or counties in which such person may desire to engage in the practice of dentistry; and the county clerks of the several counties in the State shall charge for registering such license a fee of twenty-five cents for each registration. Any failure, neglect or refusal on the part of any person holding such

license to register the same with the county clerk as above directed, for a period of six months, shall work a forfeiture of the license; and no license, when once forfeited, shall be restored except upon the payment to the said board of examiners of the sum of twenty-five dollars, as a penalty for such neglect, failure or refusal.

SEC. 11. Nothing in this act shall be construed to prevent persons from extracting teeth.

OFFENSES AGAINST PUBLIC POLICY.

SECTION 4087. If any two or more persons conspire or confederate together with the fraudulent or malicious intent wrongfully to injure the person, character, business or property of another; or to do any illegal act injurious to the public trade, health, morals, or police, or to the administration of public justice; or to commit any felony, they are guilty of a conspiracy, and every such offender, and every person who is convicted of a conspiracy at common law, shall be punished by imprisonment in the penitentiary not more than three years.—*Code of 1873.*

NUISANCES.

SECTION 4098. "The erecting, continuing, or using, any building, or other place, for the exercise of any trade, employment or manufacture, which by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious to the public health, comfort, or property of individuals, or the public, *the causing or suffering any offal, filth or noisome substance to be collected or to remain in any place, to the prejudice of others,* the obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water, or the corruption, or rendering unwholesome or impure the water of any river, stream or pond: * * * * are nuisances." (1)—*Code of 1873.*

(1) That boards of health may act understandingly in the removal of nuisances which are injuries to the public health, it is essential that they should have a clearly defined idea of what nuisances are, which they may remove or cause to be removed. A nuisance is said to be anything wrongfully done, or permitted, which injures or annoys another in the enjoyment of his legal rights. Cooley on Torts, page 565; *Rex vs. Watts*, 2 C. & P. 486, slaughter-house; *Rankett's Case*, 2 Rolle's Abr., 140, 141, melting stinking tallow; *Catlin vs. Valentine*, 9 Paige's Ch. (N. Y.) 576, slaughter-houses; *Pickard vs. Collins*, 23 Barb., (N. Y. S. C.) 444, barn; Wood on Nuisances, Sec. 494.

Every person has the legal right to the fullest enjoyment of his life and health. Anything, then, which injures or annoys the public in the enjoyment of life or health is a nuisance, which it is the duty of the boards of health, as the guardians of the public health, to abate.—*Code of 1873, Sec. 4098.*

Where an indictment charged that the defendant "unlawfully and injuriously did erect continue and use a certain enclosure or pen, in which cattle and hogs were confined, fed and watered and the excrement, decayed food, slops and other filth were retained" whereby were occasioned "noxious exhalations and offensive smells, greatly corrupting and infesting the air; and other annoyances dangerous to the public health, comfort and property of the good people residing in that immediate neighborhood," it was held, that the acts charged constituted a public indictable nuisance, both under this section (4098) of the statute, and at the common law. (*The State vs. Kaster*, 35 Iowa Supreme Court Reports 221.)

Any use of property, or any trade, that corrupts the atmosphere with smoke, noxious vapors, noisome smells, dust or other substances or gases producing injury to property, or to health, or impairing the comfortable enjoyment of property, is a nuisance. (Wood on Nuisances, page 574, section 531.)

If any board of health finds any decomposing or offensive matter upon private property, which in their opinion is injurious to health, they must first order the owner or occupant to remove it within twenty-four hours. If he neglects to do so, they may proceed summarily to cause such nuisance to be removed. If the danger to the public health is imminent, and safety requires immediate suppression or abatement of the nuisance, the board of health, or any individual affected thereby, would be protected if they proceeded at once to suppress it, for the safety of the people is the highest law. If any unhealthy nuisance is found in a public place, it would be the duty of the board of health to cause its immediate removal. *Meeker v. Rensselaer*, 14 Wend., 397. In the case of *City of Salem v. Eastern Railroad Company*, the supreme court of Massachusetts (98, p 443), under a statute which is a verbatim copy of the Iowa statute, held that the adjudication of the board that a nuisance exists is conclusive, and no appeal lies therefrom. The board should keep an accurate record of their proceedings, and all adjudications should appear therein in clear and distinct language. It is not the purpose of the order to direct in what mode the person should proceed to remove the nuisance. It should direct the end to be accomplished, leaving the party to adopt any effectual mode he may choose. If the owner, or occupant, neglects to remove the nuisance the board are at liberty to enter upon private property where it exists, and take such measures as they may see fit for its removal.

The court further says, in relation to boards of health: "Their action is intended to be prompt and summary. They are clothed with extraordinary powers for the protection of the community from noxious influences affecting life and health, and it is important that their proceedings should be embarrassed and delayed as little as possible by the necessary observance of formalities. Although notice and opportunity to be heard upon matters affecting private interests ought always to be given when practicable, yet the nature and object of those proceedings are such that it is deemed to be most for the general good that notice should not be essential to the right of the board to act for the public safety. Delay for the purpose of giving notice, involving either of public notice or of inquiry to ascertain who are the parties whose interest will be affected, and further delay for such hearings as the parties may think necessary for the protection of their interests, might defeat all beneficial results from an attempt to exercise the powers conferred upon boards of health. The necessity of the case, and the importance of the public interests at stake, justify the omission of notice to the individual."

"Notice must be given of general regulations prescribed by the board before parties can be held in default for a disregard of their requirements. No previous notice to parties so to be affected by them, is necessary. They belong to that class of police regulations to which all individual rights of property are held subject, whether established directly by enactments of the legislature, or by its authority through boards of local administration."

If a pond, a slaughter-house, or a burial ground, or anything of a kindred nature, becomes offensive and unhealthy to the community, it is the duty of the board of health to proceed at once to abate the same. Whether a business or a thing, not in itself a nuisance, is so managed or suffered to exist as to be a nuisance, is a fact which must be determined by the board, upon investigation made by them. Although slaughter-houses are regarded by the courts as *prima facie* nuisances, a person engaged in carrying on the business of slaughtering animals cannot be compelled to discontinue that business upon the judgment of any tribunal except that of a court of competent jurisdiction. In this way alone can a board of health legally determine whether such a business is a nuisance so as to authorize them to abate it. But any collection of offal or filth in or about the slaughter-house may be removed by the board of health, and the place may be required to be kept clean under the authority conferred by sections 17 and 18, chapter 151, laws of 1880, but the suppression of the business itself can only follow a judicial determination that it is so conducted as to be injurious to the public health.—*Schuster v. Met. Board of Health*, 49 Barb. (N. Y. S. C.), 450; *Wood on Nuisances*, Secs. 494, 504, 525.

If the health officer of a local board of health declares a thing a nuisance and dangerous to the public health, it is the duty of the board to abate it.—*Attorney-General*, May 18, 1886.

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